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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re JACOB P., a Person Coming  
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

JACOB P.,

Defendant and Appellant.

G028879

(Super. Ct. No. DL007463)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Joy W. Markman, Judge. Affirmed.

Fay Arfa, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Peter Quon, Jr., and Marvin E. Mizell, Deputy Attorneys General, for Plaintiff and Respondent.

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The juvenile court sustained a petition alleging Jacob P., a minor, committed an assault with a deadly weapon. Minor argues the evidence presented at the jurisdiction hearing failed to support the finding. We reject his contention and affirm.

## FACTS

One afternoon, minor and his elder sister Marlene engaged in a heated argument. Minor said he had a “death wish” for Marlene. When Marlene went into the hallway outside the family’s apartment, minor picked up an eight-to-ten-inch knife from the kitchen and followed her. A few seconds later, minor re-entered the apartment still carrying the knife, grabbed his coat, and left. Marlene then returned to the apartment with lacerations on her left hand and called the police.

Conflicting accounts of what occurred in the hallway were presented at trial through Marlene’s testimony, both on direct examination and cross-examination, and through the testimony of a police officer that spoke with Marlene at the time of minor’s arrest. The undisputed evidence reflects minor pointed the knife at Marlene and made jabbing motions with it, although, at trial, Marlene claimed he only pointed the wooden handle at her. Marlene became fearful and grabbed the knife, resulting in the cuts to her hand. In addition, Marlene testified on direct examination that when minor entered the hallway “[h]e was telling me that he was going to stab me.”

## DISCUSSION

Minor contends “the mere pointing of the knife” and his “‘jabbing motions’” with it are insufficient “to prove that the[se] act[s], by [their] nature, would probably and directly result in the application of force toward Marlene.” Whether either

or both of these acts would suffice to establish minor committed an assault is of no moment. In this case, a review of the entire record supports the juvenile court's decision.

Assault with a deadly weapon is a general intent crime. (*People v. Rocha* (1971) 3 Cal.3d 893, 899.) To support a conviction, "a defendant . . . must be aware of the facts that would lead a reasonable person to realize that a battery would directly, naturally and probably result from his conduct." (*People v. Williams* (2001) 26 Cal.4th 779, 788.) "[T]he question of intent for assault is determined by the character of the defendant's willful conduct considered in conjunction with its direct and probable consequences. If one commits an act that by its nature will likely result in physical force on another, the particular intention of committing a battery is thereby subsumed. Since the law seeks to prevent such harm irrespective of any actual purpose to cause it, a general criminal intent or willingness to commit the act satisfies the mens rea requirement for assault." (*People v. Colantuono* (1994) 7 Cal.4th 206, 217.)

"As this court explained more than a century ago, 'Holding up a fist in a menacing manner, drawing a sword, or bayonet, presenting a gun at a person who is within its range, have been held to constitute an assault. So, *any other similar act*, accompanied by such circumstances as denote an intention existing at the time, coupled with a present ability of *using actual violence* against the person of another, will be considered an assault.' [Citations.]" (*People v. Colantuono, supra*, 7 Cal.4th at p. 219. See also *People v. Vorbach* (1984) 151 Cal.App.3d 425, 429.)

Minor did more than recklessly wield a knife in his sister's presence. After expressing a "death wish" for Marlene, minor grabbed the weapon, followed her, threatened to stab her, and made slashing motions with the knife while the two were within arm's length of each other. Expressing an intent to injure a person while pointing a knife and making indiscriminate slashing and jabbing motions with it in the person's immediate vicinity is just the sort of conduct that could "probably and directly result" in a battery. By their very nature, the minor's actions were the kind that would likely result in

contact with the victim. Minor notes Marlene testified at trial that he only pointed the knife's wooden handle at her. But the juvenile court did not make an express finding on this issue, and only referred to the display of the knife's handle in what the judge described as "the most minimal portrayal of the facts . . . ."

The juvenile court opined no assault occurred until Marlene grabbed the knife. However, we review the correctness of its decision, not the reasoning employed in making it. (*In re Baraka H.* (1992) 6 Cal.App.4th 1039, 1045.) Furthermore, for an assault, "the necessary mental state is 'an intent merely to do a violent act.' [Citation.] The consequences of that act serve only to inform the inquiry of whether the defendant attempted physical force against the person of another; but they are not controlling. Once the violence is commenced, 'the assault is complete.' [Citation.]" (*People v. Colantuono, supra*, 7 Cal.4th at p. 219.) Minor's actions, considered in their entirety, reflect he committed the offense of assault with a deadly weapon in this case.

#### DISPOSITION

The judgment is affirmed.

RYLAARSDAM, J.

WE CONCUR:

SILLS, P. J.

O'LEARY, J.